

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Mikio Fukuda

Docket No.: SAITO.4544-NY

Serial No.: 10/595,639

Art Unit: 2614

Filed: 05/02/2006

Examiner: Ni, Suhan.

**Title: BONE-CONDUCTION DEVICE AND METHOD OF MANUFACTURING THE  
SAME**

Commissioner for Patents & Trademarks  
P. O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO RESTRICTION REQUIREMENT**

In response to the Restriction Requirement mailed on September 18, 2009, Applicants hereby elect Group III (described in claims 5-6). This election is made with traverse, and Applicants hereby reserve the right to file divisional applications in connection with the unelected Group I, Group II and Group IV. Applicant asserts that for a restriction to be proper, MPEP §803 sets forth that there are two criteria for a proper between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and

(B) There would be a serious burden on the examiner if restriction is not required.

In this case, the Examiner has not shown that there would be a serious burden on the Examiner.

Applicant elects Claims 5-6 directed to Species III.

Applicants respectfully contend that the species restriction is improper, because Species I, II, and Species IV are not mutually exclusive. See MPEP § 806.04(f) which asserts: “Claims to be restricted to different species must be mutually exclusive”.

Should the Examiner require or request anything further from Applicant's prior to examination, the Examiner is requested to contact Applicants' undersigned representative at the Agent Direct Dial telephone number below. Otherwise, Applicants request early and favorable examination on the merits.

Date: 10/27/2009

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